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61

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,687	11/12/2003	Akihiro Miwa	393032041800	9078
25224	7590	03/22/2007	EXAMINER	
MORRISON & FOERSTER, LLP			QIN, JIANCHUN	
555 WEST FIFTH STREET				
SUITE 3500			ART UNIT	PAPER NUMBER
LOS ANGELES, CA 90013-1024			2837	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/22/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/712,687	MIWA, AKIHIRO	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jianchun Qin	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 January 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 6-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 and 6-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s)-(PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/06/06</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Objection*

1. Claim 8 is objected to because of the following minor informalities:

Regarding claim 8, the Applicants are advised that patents are not granted for all discoveries, but only for those, which are specifically provided for in 35 U.S.C. 101. This section requires that the invention be "new and useful" and that it fall within one of the five specified classes of invention, which are:

1. Process or method (which may be a process of making something or a process of using something)
2. Machine or apparatus,
3. Manufacture (article)
4. Composition of matter
5. An improvement of any of the above

Therefore, it is suggested to change the phrase "A cursor movement controlling program, embodied on a computer-readable medium," into -- A computer-readable medium for storing a cursor movement controlling program --.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. (U.S. Pat. No. 5434626, hereafter referred to as Hayashi-I) in view of Hayashi et al. (U.S. Pat. No. 5237417, hereafter referred to as Hayashi-II) and Akiyama (JP 01175021 A)

With respect to claims 1, 7 and 8:

Hayashi-I teaches a cursor movement controlling apparatus, method and computer program for controlling a cursor movement for an electronic musical apparatus, comprising: a display that displays a plurality of choices for controlling parameters of the electronic music apparatus, each choice categorized into one of a plurality of groups and corresponding to a value (col. 9, lines 44-47, the setting parameter), and a cursor for selecting a choice from the plurality of displayed choices (Figs. 5 and 6a-6c; col. 9, lines 23-68); an instructor that instructs a movement of the displayed cursor from a current choice at which the cursor is currently displayed to another choice (col. 9, lines 42-47); a movement storage device that stores choice information corresponding to a value (the setting parameter) shared by all of the plurality of groups (col. 4, lines 55-60; col. 9, lines 12-22 and lines 42-47; col. 10, lines 1-7), the choice information indicating at which choice in a group the cursor should be displayed when the cursor is moved to the group from one of the choices in another group (col. 9, lines 12-22; col. 10, lines 1-7); and a cursor moving device that moves, when the movement of the cursor from a current choice in a first group to another choice in the same group is instructed, the cursor to the another choice and stores the movement of the cursor as the choice information in the movement storage device, and

that moves, when the movement of the cursor from a current choice in said first group to a choice in a second group is instructed, the cursor to a choice in said second group indicated by the choice information (col. 9, lines 1-39).

Hayashi-I does not mention expressly: said plurality of groups displayed simultaneously on one screen, said plurality of choices displayed for each of the plurality of groups, said cursor capable of moving in an up/down direction and in a right/left direction wherein one direction is for moving among the plurality of groups and the other direction is for moving among the plurality of choices in the same group; and wherein, if the choice corresponding to the choice information does not exist in the second group, the cursor moving device moves the cursor to a choice in said second group corresponding to a value numerically closest to the value of the choice information.

Hayashi-II teaches an apparatus for displaying electronic music apparatus operational parameters, including: a display that displays a plurality of choices for controlling parameters of the electronic music apparatus, each choice categorized into one of a plurality of groups, and a cursor for selecting a choice from the plurality of displayed choices, said plurality of groups displayed simultaneously on one screen, said plurality of choices displayed for each of the plurality of groups, said cursor capable of moving in an up/down direction and in a right/left direction wherein one direction is for moving among the plurality of groups and the other direction is for moving among the plurality of choices in the same group (Figs. 2 and 4; col. 3, lines 64-68; col. 4, lines 20-59).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teaching of Hayashi-II in the invention of Hayashi-I in order to display a user-friendly on-screen menu system through which various control parameters can be easily selected by the user (Hayashi-II, col. 2, lines 13-26).

Akiyama discloses a coordinate input device, and teaches: if a choice corresponding to a choice information does not exist, a cursor moving device moves the cursor to a choice corresponding to a value numerically closest to the value of the choice information (Abstract).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teaching of Akiyama in the invention of Hayashi-I in order to provide a exception handler for moving the cursor so as to improve the operability of the device (Akiyama, Abstract).

With respect to claims 3 and 6:

The teaching of Hayashi-I further includes: the movement storage device stores information concerning a position of the cursor within the first group as choice information (col. 9, lines 12-22; col. 10, lines 1-7); and the cursor moving device moves the cursor in accordance with the instruction of the instructor when the movement of the cursor within the first group is instructed (col. 9, lines 42-47).

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi-I in view of Hayashi-II and Akiyama, as applied to claim 1 above, and further in view of Robertson et al. (U.S. Pat. No. 5598183).

Hayashi-I in view of Hayashi-II and Akiyama teach the subject matter discussed above. Hayashi-I in view of Hayashi-II and Akiyama do not mention explicitly: the movement storage device stores information concerning a direction and a distance of the movement of the cursor within the group as the content of the movement.

Robertson et al. teaches the movement storage device stores information concerning a direction and a distance of the movement of the cursor within the group as the content of the movement (col. 3, lines 51-67; col. 4, lines 1-14 and lines 42-67 and col. 5, lines 1-7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teaching of Robertson et al. in the combination of Hayashi-I, Hayashi-II and Akiyama in order to provide a mechanism for tracking the movement of the cursor so that when it is needed the cursor can be moved back to the original position easily (Robertson et al., Abstract).

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2837

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Prior Art Citations***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) Bates et al. (U. S. Pub. No. 2003/0067442 A1) is entitled "Method and system for selectively controlling graphical pointer movement based upon web page content".

2) Kunifu (U. S. Pat. No. 5739454) is entitled "Method and device for setting or selecting a tonal characteristic using segments of excitation mechanisms and structures".

3) Koyama et al. (U. S. Pat. No. 5646362) is entitled "Sound parameter editing device for an electronic musical instrument".

4) Hotta (U.S. Pat. No. 5225617) is entitled "Selection device for tone control in an electronic music instrument"

***Response to Arguments***

7. Applicant's arguments received 01/17/07 with respect to claims 1-3 and 6-8 have been considered but are moot in view of the new ground(s) of rejection.

Amended claims 1-3 and 6-8 are rejected as new grounds have been found from the Hayashi-I reference and a new prior art reference (JP 01175021 A to Akiyama) to teach the limitations argued by the Applicants. Detailed response is given in section 3 as set forth above in this Office Action.

***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Art Unit: 2837

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JQ

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